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December 5, 2023

**VIA ECF**

The Honorable Lorna G. Schofield  
United States District Court  
for the Southern District of New York  
40 Foley Square, Room 1106  
New York, NY 10007

**Re: *Huckabee et al. v. Meta Platforms, Inc. et al.*, No. 1:23 Civ. 09152 (LGS)**

Dear Judge Schofield:

Pursuant to Rule I.B. of this Court's Individual Rules of Practice, the parties write jointly to inform the Court of certain defendants' intent to challenge venue and/or jurisdiction in this Court and to present the Court with certain parties' request that the Court enter a phased briefing schedule and adjourn the initial Case Management Conference ("CMC"), currently scheduled for December 13, 2023, pending resolution of briefing directed solely to jurisdictional and venue challenges. On November 21, 2023, the parties requested an extension of time to January 26, 2024 for all defendants to respond to the Complaint, which the Court granted. ECF No. 36.

Defendant Meta Platforms, Inc. ("Meta") intends to file, and defendant Microsoft Corporation ("Microsoft") intends to join, a motion to sever and transfer all claims against them to the Northern District of California, on the ground, among others, that overlapping putative class action lawsuits involving the same claims and subject matter of this action are already pending against Meta in that Court before the honorable District Judge Vince Chhabria, captioned *Kadrey et al. v. Meta Platforms, Inc.*, No. 3:23 Civ. 3417 (VC) (filed July 2023), and *Chabon et al. v. Meta Platforms, Inc.*, No. 23 Civ. 4663 (VC) (filed September 2023), warranting severance and transfer under the First Filed Rule and 28 U.S.C. § 1404. Defendant EleutherAI Institute ("EleutherAI") is also contemplating a challenge to proceeding in this Court, on grounds of improper venue and/or lack of personal jurisdiction. Plaintiffs dispute that venue or jurisdiction is lacking in this Court as to these defendants, and defendants Bloomberg L.P. and Bloomberg Finance, L.P. (together, "Bloomberg Defendants") do not currently intend to oppose such anticipated motions.

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Although the Bloomberg Defendants do not oppose severance and transfer of the claims against Meta and Microsoft and do not anticipate any opposition to EleutherAI's contemplated motion, the Bloomberg Defendants wish to be clear with the Court that they oppose transfer of Plaintiffs' claims against the Bloomberg Defendants. The Bloomberg Defendants, BloombergGPT, and the claims against the Bloomberg Defendants are unrelated to Meta and the claims separately presented against Meta in the pending *Kadrey* and *Chabon* litigations.

In light of the forthcoming motion practice, and in the interests of judicial efficiency and economy, the parties have met and conferred and (with the exception of Bloomberg Defendants) agree, subject to the approval of the Court, that briefing should be staged such that any motions directed to venue or jurisdiction are filed and resolved first, before any defendant is required to file Rule 12(b)(6) motions directed to other asserted pleading defects, and that the initial CMC currently set for December 13, 2023 should be adjourned until after the hearing on the venue/jurisdiction motions, consistent with this Court's practice in other cases. *See Teva Pharmaceuticals USA, Inc. v. Synthon Pharmaceuticals, Inc.*, No. 1:17 Civ. 345 (LGS) (S.D.N.Y. Feb. 8, 2017), ECF No. 31; *Dentsply Int'l, Inc. v. Dental Brands for Less LLC*, No. 15 Civ. 8775 (LGS) (GWG) (S.D.N.Y. Jan. 22, 2016), ECF No. 18. With the exception of the Bloomberg Defendants, all parties agree it is premature to discuss a case schedule or proceed with the CMC, discovery or other pretrial planning while venue and jurisdictional challenges remain to be decided.

Accordingly, Plaintiffs and defendants Meta, Microsoft, and EleutherAI now respectfully request entry of an order: (1) adjourning the CMC until after the hearing on the anticipated venue motion and vacating the attendant December 6, 2023 deadline to submit a joint CMC statement (ECF No. 36); (2) staying any obligation of defendants to answer or otherwise file motions to dismiss under Rule 12(b)(6) directed to pleading defects other than venue or jurisdiction until after any venue/jurisdictional challenges are resolved; and (3) setting the following briefing schedule on motions directed solely to venue/jurisdiction:

- January 26, 2024: Opening Papers
- February 20, 2024: Opposition Papers
- March 1, 2024: Reply Papers

The Bloomberg Defendants state that they are prepared to appear for the initial CMC as currently scheduled on December 13, 2023, and to file certain case management related papers on December 6, 2023. Bloomberg Defendants recommend that the Court proceed with the CMC to hear the parties' positions regarding preliminary matters and to establish an appropriate schedule for their resolution. Although Plaintiffs join defendants Meta, Microsoft, and EleutherAI in the request to adjourn the CMC and vacate the December 6 deadline, Plaintiffs are also prepared to comply with the Court's orders and appear for the December 13, 2023 CMC as scheduled. Finally, although Bloomberg Defendants defer to the Court's preferences regarding the orderly progression of this matter, they are prepared to present their responsive motion to dismiss the Complaint on January 26, 2024, pursuant to the parties' earlier agreement and the Court's Order, and Plaintiffs will be prepared to respond accordingly.

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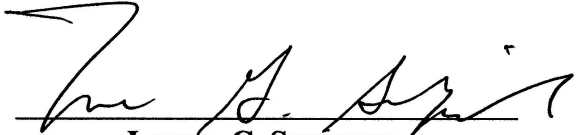
Respectfully submitted,

/s/ Angela L. Dunning  
Angela L. Dunning  
Cleary Gottlieb Steen & Hamilton LLP  
*Counsel for Meta Platforms, Inc.*

cc: Counsel of Record (via ECF)

The initial pre-trial conference in this matter is adjourned to **January 17, 2024, at 4:20 P.M.** The parties shall confer and attempt to resolve the venue and jurisdictional disputes without motions practice. If no resolution is achieved, by **December 15, 2023**, any Defendant wishing to contest venue or jurisdiction shall file a letter, not to exceed three pages, stating the basis for its challenge. By **December 22, 2023**, Plaintiffs shall file a single letter, not to exceed six pages, stating the basis for their opposition. If it is the intent of the Bloomberg Defendants to file a motion to dismiss, they shall file a letter in accordance with the Court's Individual Rule III.C.2 by **December 15, 2023**. Plaintiffs shall file a responsive letter by **December 22, 2023**. The parties shall jointly complete and file the case management papers required by the Order at Dkt. 8 no later than **January 10, 2024**. The Court typically does not stay discovery while motions are pending. The parties should therefore select concrete discovery deadlines in their proposed Case Management Plan. So Ordered.

Dated: December 6, 2023  
New York, New York

  
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**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**